

### **REMARKS/ARGUMENTS**

This amendment is in response to the Office Action mailed July 16, 2004. Applicants would like to thank the Examiner for a timely and thorough review of the above-referenced patent application. Applicants would also like to thank the Examiner for the indications of allowable subject matter and the withdrawal of previous rejections. Independent Claims 6, 13, and 17 have been amended to more clearly define the invention, as explained more fully below. It is respectfully submitted that in light of the arguments and claim amendments, the application is now in condition for allowance.

#### **Rejection as Final or Non-Final**

Applicants note that the summary sheet of the Office Action of July 16, 2004 and the PAIR system indicate that the Action is Final. However, Applicants also note that the rejection under 35 U.S.C. § 102 is based upon new art and the text of the Office Action does not indicate that the Office Action is Final. Therefore, Applicants respectfully request that the Office Action of July 16, 2004 be regarded a Non-Final action.

#### **Rejections Under 35 U.S.C. § 112, Second Paragraph**

The Office Action rejected Claims 13-16 under 35 U.S.C. § 112, second paragraph, as being indefinite because the phrase "such as" made it unclear whether the limitation following the phrase was part of the invention. Applicants have deleted the phrase " , such as a pump or screen," to remove the indefiniteness of the identified phrase. Accordingly, Applicants respectfully submit that the amended Claim 13, and Claims 14-16 that depend therefrom, are no longer indefinite and that the rejection of Claims 13-16 should be withdrawn.

#### **Rejections Under 35 U.S.C. § 102(b) – King**

The Office Action rejected Claims 6-7, 9, 17, and 19-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,808,007 to King. To the extent that this rejection would be applied against the claims as amended, Applicants respectfully traverse.

The King '007 patent discloses an apparatus for mixing materials of widely disparate viscosities by providing an entry port 15 for a second flow located in the center of the tubular member 1 for the first flow. Applicants have amended Claims 6 and 17 to specifically claim that "the one or more feed openings are not substantially defined at the axial center of the tube." The amendment is supported by the figures of the present application, in particular figures 2-5 and 7.

The King '007 patent states that it is crucial for the entry port 15 to be positioned at a point substantially coincident with the point of substantial mutual tangency of the orifices 5 and 6, which is the center of the tubular member 1 (col. 3, lines 53-64 of the King '007 patent). This location in the center of the tubular member 1 is crucial because it greatly enhances the molecular fusion between the low viscosity and high viscosity fluids (col. 3, lines 60-62 of the King '007 patent). Amended Claims 6 and 17, and the claims that depend therefrom, specifically claim that the feed openings are not substantially defined at the axial center of the tube. Therefore, Applicants respectfully submit that the amended claims are not anticipated by the King '007 patent. Accordingly, Applicants respectfully request that the rejection of Claims 6-7, 9, 17, and 19-20 be withdrawn

### **CONCLUSION**

In view of the foregoing remarks, Applicants respectfully submit that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Halpern is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

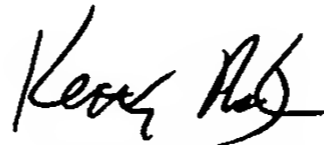
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It is not believed that fees for extensions of time or for net addition of claims are required. However, in the event that additional extensions of time or fees for net addition of claims are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fees required are hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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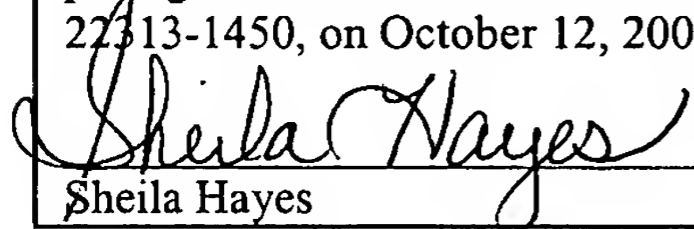
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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 12, 2004.



Sheila Hayes

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